

BEFORE THE BOARD OF EDUCATIONAL EXAMINERS
OF THE STATE OF IOWA

RECEIVED
EXECUTIVE DIRECTOR
BOARD OF EDUCATIONAL EXAMINERS

JAN 28 2015

In the matter of:) BOEE Case No. 14-38
)
MICHAEL BUNNELL,)
(Folder # 349328)) **STIPULATION AND ORDER**
)
Respondent.)

In accordance with the provisions of Iowa Code sections 17A.12(5) and 272.2(4) and 282 IAC 11.4(6), and with full knowledge of the right to demand a formal hearing before the Board upon the pending complaint prior to the imposition of sanction upon his license, the Respondent expressly waives the right to a disciplinary hearing and notifies the Board of his desire to resolve the pending complaint through means of informal disposition.

The Respondent concedes the jurisdiction of the Board for all issues relevant hereto and voluntarily consents to the State's counsel presenting this agreement to the Board with the terms provided. If the Board does not accept the terms of this agreement, the disciplinary hearing will be rescheduled and the stipulations contained herein are not binding upon the Respondent and will not be presented against him at the time of hearing without further agreement of the Respondent.

Board approval of this settlement shall constitute resolution of this matter and will be entered as a FINAL ORDER of the Board.

STIPULATIONS

1. Respondent holds a STANDARD LICENSE (FOLDER # 349328) with the following endorsements: 5-12 English/Language Arts; 5-12 Mathematics; 5-12 Mildly Disabled; and 5-12 Learning Disabilities. Respondent's license is current and will next expire on February 28, 2019. Respondent also holds a current Evaluator (New) License that will expire on September 30, 2019. Respondent also holds an Administrator Exchange License that expired on September 30, 2014. Respondent has the following endorsements on his Administrator Exchange License: PK-12 Principal; and PK-12 Special Education Supervisor. Respondent also holds a Coaching Authorization that is current and expires on January 10, 2017. Respondent also holds an expired Regional Exchange License.

2. Respondent was initially employed with Burlington Community School District on August 13, 2012, and taught Level 1 special education for grades 9 through 12. He remained in his position until his resignation effective May 20, 2014.

3. On April 4, 2014, the Board of Educational Examiners received a complaint against Respondent alleging a violation of the Code of Ethics.

4. On August 8, 2014, the Board found probable cause to proceed to hearing based upon the facts set forth herein and delineated in Section D. of the Statement of Charges in this matter. The Board charged Respondent with violation of Board rule 282 Iowa Administrative Code 25.3(3)(e), which prohibits misrepresentation or falsification of information by falsifying or deliberately misrepresenting or omitting material information regarding the evaluation of students or personnel, including improper administration of any standardized tests, including, but not limited to, changing test answers, providing test answers, copying or teaching identified test items, or using inappropriate accommodations or modifications for such tests. The Board also charged Respondent with violating Board rule 282 Iowa Administrative Code 25.3(6)(m), which prohibits failing to comply with federal, state, and local laws applicable to the fulfillment of professional obligations.

5. Investigation revealed that Respondent inappropriately administered IEP probes, that Respondent's progress monitoring reports did not match student probes, that scores were entered on IEPs without any accompanying probes, and that data entered into student IEP's by Respondent was false. Investigation also revealed that IEP meetings were not appropriately being held.

SETTLEMENT AGREEMENT

6. This Combined Notice of Hearing, Settlement Agreement, and Final Order constitutes the final resolution of a contested case proceeding and shall have the force and effect of a disciplinary order entered following a contested case hearing.

7. In order to resolve this matter without proceeding to hearing, Respondent agrees to the following conditions:

- a. Respondent accepts a WRITTEN REPRIMAND.
- b. Respondent agrees to successfully complete at least fifteen in-person hours in "Ethics for Educators." This course is offered by the ISEA. Respondent is responsible for all costs associated with the completion of the educational course. Respondent shall provide the Board with proof of completion of the Ethics for Educators course within four (4) months of the Board's acceptance of this order.
- c. Respondent agrees to successfully complete a class in special education law, preapproved by the Board. Respondent is responsible for all costs associated with the completion of the course. Respondent shall provide the Board with proof of completion of the course within six (6) months of the Board's acceptance of this order.

LICENSEE DECLARATION

I understand that this settlement agreement is subject to the approval of the

Board and will have no force or effect if it is not accepted by the Board.

I understand State's counsel will present this Agreement to the Board *ex parte*.

I agree to comply with the requirements set forth in the stipulations and understand that my failure to do so will result in the indefinite suspension of my teaching license.

I understand that the Notice of Hearing and this Stipulation and Order are public records which will become part of my permanent licensure file and will be available for public inspection and reproduction.

I understand that my name will be added to the national clearinghouse database kept by the National Association of State Directors of Teacher Education and Certification (NASDTEC).

26 January 2015
Date


Michael E. Bunnell
Michael E. Bunnell, Respondent

ORDER

IT IS THE FINAL ORDER OF THE IOWA BOARD OF EDUCATIONAL EXAMINERS THAT:

1. The conduct with which Respondent has been charged constitutes a violation of the Code of Professional Conduct and Ethics governing the teaching profession. Respondent is REPRIMANDED for the charged conduct.
2. Respondent shall successfully complete at least fifteen in-person hours in "Ethics for Educators." Respondent is responsible for all costs associated with the completion of the educational course. Respondent shall provide the Board with proof of completion of the Ethics for Educators course within four (4) months of the date of this Order.
3. Respondent shall successfully complete a class in special education law, preapproved by the Board. Respondent is responsible for all costs associated with the completion of the course. Respondent shall provide the Board with proof of completion of the course within six (6) months of the Board's acceptance of this order.
4. In determining the appropriate sanction to impose in this case, the Board has considered the nature and seriousness of the allegations as well as mitigating circumstances.

Dated this 13th day of February, 2015.



Duane T. Magee, Executive Director
Iowa Board of Educational Examiners

Copies to:

Michael E. Bunnell
RESPONDENT

Renner K. Walker
ATTORNEY FOR THE STATE

**BEFORE THE BOARD OF EDUCATIONAL EXAMINERS
OF THE STATE OF IOWA**

In the matter of)	Case No. 14-38
)	Folder No. 349328
MICHAEL E. BUNNELL,)	
)	NOTICE OF HEARING
Respondent.)	AND STATEMENT OF CHARGES

YOU ARE HEREBY NOTIFIED that the Iowa Board of Educational Examiners, exercising the jurisdiction conferred by Iowa Code chapters 17A and 272, has found probable cause of a violation of Board rules and ordered this matter scheduled for hearing.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing will be held on Monday, January 19, 2015, before Administrative Law Judge Laura Lockard, acting on behalf of the Iowa Board of Educational Examiners. The hearing shall begin at 9:00 a.m. in Department of Inspections and Appeals, Wallace State Office Bldg, Third Floor, 502 E. 9th Street (East 9th and Grand Avenue), Des Moines, Iowa. You should report to the third floor Iowa Department of Inspections and Appeals' (DIA) receptionist prior to 9:00 a.m. to obtain the room assignment.

2. Answer. Within twenty (20) days of the date of service of this Notice of Hearing, you are required to file an Answer specifically admitting, denying, or otherwise responding to the allegations included within the Factual Allegations. In that Answer, you should also state whether you will require an adjustment of the date and time of the hearing. A copy of the Answer shall be provided by the Respondent to the Assistant Attorney General identified below.

3. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 282 Iowa Administrative Code Chapter 11. At hearing, you may appear personally or be represented by an attorney, at your own expense. You will be allowed the opportunity to respond to the charges against you. Each party will be allowed to testify, examine and cross-examine witnesses, and present documentary evidence. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence. If you need to request an alternative time or date for hearing, you must comply with the requirements of 282 Iowa Admin. Code rule 11.19.

If either party wishes to present telephonic testimony or to participate in the hearing by telephone, arrangements must be made at least ten (10) days in advance of the hearing date by filing a written request with the presiding Administrative Law Judge, Department of Inspections and Appeals, Wallace State Office Building, Des Moines, Iowa 50319, or by faxing a written request to (515) 281-4477. A copy of the request for telephonic testimony must be served on the Board and all parties. Any resistance to the request for telephone testimony must be filed within five (5) days of service of the notice.

4. Pre-hearing conference. Either party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board rules regarding pre-hearing conferences are found in 282 Iowa Admin. Code rule 11.18.

5. Prosecution. The office of the Attorney General is responsible for prosecuting and representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address:

Renner K. Walker
Assistant Attorney General
Iowa Department of Justice
2nd Floor, Hoover State Office Building
1305 E. Walnut St.
Des Moines, Iowa 50319
Telephone (515) 281-7175.

6. Communications. You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing or the pending charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve on all parties in the case. You should direct any questions about this proceeding to Duane T. Magee, the Board's Executive Director, at (515) 281-5849 or to Assistant Attorney General Walker at (515) 281-7175.

B. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

7. Respondent is charged with misrepresentation or falsification of information by falsifying or deliberately misrepresenting or omitting material information regarding the evaluation of students or personnel, including improper administration of any standardized tests, including, but not limited to, changing test answers, providing test answers, copying or teaching identified test items, or using inappropriate accommodations or modifications for such tests, in violation of Board rule 282 Iowa Admin. Code 25.3(3)(e).

Count II

8. Respondent is charged with failing to comply with federal, state, and local laws applicable to the fulfillment of professional obligations, in violation of Board rule 282 Iowa Admin. Code 25.3(6)(m).

C. JURISDICTION AND LEGAL AUTHORITY

9. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A and 272. If any of the allegations against you are proven at hearing, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A and 272, and 282 Iowa Admin. Code chapter 11.

D. FACTUAL CIRCUMSTANCES

10. Respondent holds a STANDARD LICENSE (FOLDER # 349328) with the following endorsements: 5-12 English/Language Arts; 5-12 Mathematics; 5-12 Mildly Disabled; and 5-12 Learning Disabilities. Respondent's license is current and will next expire on February 28, 2019. Respondent also holds a current Evaluator (New) License that will expire on September 30, 2019. Respondent also holds an Administrator Exchange

License that expired on September 30, 2014. Respondent has the following endorsements on his Administrator Exchange License: PK-12 Principal; and PK-12 Special Education Supervisor. Respondent also holds a Coaching Authorization that is current and expires on January 10, 2017. Respondent also holds an expired Regional Exchange License.

11. Respondent was initially employed with Burlington Community School District on August 13, 2012, and taught Level 1 special education for grades 9 through 12. He remained in his position until his resignation effective May 20, 2014.

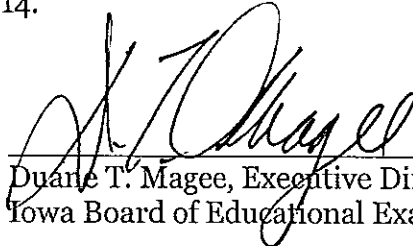
12. On April 4, 2014, the Board of Educational Examiners received a complaint against Respondent alleging a violation of the Code of Ethics. On August 8, 2014, the Board found probable cause to proceed to hearing based upon the facts set forth herein and delineated in further detail within the complaint and investigation file compiled by the Board.

13. Investigation revealed that Respondent inappropriately administered IEP probes, that Respondent's progress monitoring reports did not match student probes, that scores were entered on IEPs without any accompanying probes, and that data entered into student IEP's by Respondent was false. Investigation also revealed that IEP meetings were not appropriately being held.

E. SETTLEMENT

14. This matter may be resolved by surrender of your license or an agreement to accept a lesser sanction. The procedural rules governing the Board's settlement process are found at 282 Iowa Administrative Code rule 11.4(6). If you are interested in pursuing settlement of this matter, please contact the Assistant Attorney General identified in Section A, above.

Dated this 4th day of November, 2014.


Duane T. Magee, Executive Director
Iowa Board of Educational Examiners

Copies to:

Michael E. Bunnell (first-class mail and restricted-certified mail)
RESPONDENT

Renner K. Walker (electronic mail)
ATTORNEY FOR STATE